

Congress of the United States
House of Representatives
Washington, DC 20515-4324

August 26, 2016

The Honorable Loretta Lynch
Attorney General
Department of Justice
950 Pennsylvania Ave., NW Suite 5111
Washington, DC 20530

Dear Attorney General Lynch:

I am writing to respectfully request that you promptly exercise your authority to appoint a special counsel to investigate the alleged "pay to play" conduct of the Clinton Foundation, determine if it constitutes illegal activity, and rigorously pursue any and all appropriate legal action to ensure full and timely delivery of justice.

Though the Federal Bureau of Investigation, U.S. Attorney's Offices, and Internal Revenue Service are conducting their own reviews of the Clinton Foundation's activities, the present circumstances require an independent investigation in which the impartiality is without question. The current Administration's own attorneys and officers do not meet this standard. This was made clear on July 5 when FBI Director James Comey patently disregarded the law by declining to pursue an indictment against former Secretary Hillary Clinton for her email practices because she lacked intent – even though the law only requires gross negligence and he described her actions as "extremely careless." In addition, your private June meeting with former President Bill Clinton at Phoenix Sky Harbor International Airport, regardless of intent or content, critically taints the appearance of neutrality on the part of DOJ that is so important to our system of justice. A functional rule of law not only requires fairness – but for citizens to also be able to trust that the system is fair. At this point, that can only be achieved through a special counsel.

The foregoing realities demonstrate that an investigation "by a United States Attorney's Office or litigation Division of the Department of Justice would present a conflict of interest for the Department or other extraordinary circumstances," which is one of two regulatory requirements under 28 C.F.R. § 660.1 for the appointment of special counsel. The other, as you know, is simply "that criminal investigation of a person or matter is warranted." That this requirement is met is evident both in the fact that the FBI, with DOJ, is already doing its own (albeit not sufficiently independent) investigation into the Clinton Foundation and by the Foundation's admission that it would stop accepting foreign and corporate donations if Hillary Clinton were to be elected President of the United States. The latter additionally calls into question how those donations were acceptable during her tenure as Secretary of State. There is

no justifiable reason why the propriety of such practices should vary between Clinton's potentially serving as president versus her being a cabinet secretary.

While such maneuvers speak for themselves as to the merit of a criminal investigation, some of the underlying facts bear repeating as well.

The multifaceted Clinton Foundation has raised \$2 billion since its creation in 2001. Pages of emails obtained by Judicial Watch through its Freedom of Information Act (FOIA) lawsuit against the State Department demonstrate several instances in which Clinton Foundation staff interacted with State personnel to secure access for donors to Secretary Clinton and key officials. In fact, according to the *Associated Press*, of Secretary Clinton's 154 meetings or calls with private citizens, 85 had been with donors to the Foundation – totaling as much as \$156 million. State's response that there were many more meetings with public officials is an inconsequential red herring. Published examples of email correspondence bear this out. In one 2009 exchange, according to *The New York Times*, Clinton Foundation staffer, Doug Band, asked Clinton aides, Human Abedin and Cheryl Mills, to connect a Lebanese-Nigerian billionaire and major donor, Gilbert Chagoury, with State Department officials. In another, Mr. Band worked through Ms. Abedin, then at State, to secure a meeting with Secretary Clinton for Crown Prince Salman of Bahrain, while stressing his donor status by innuendo. The pattern of questionable interplay between the Clinton Foundation and the State Department under Clinton was broad and unmistakable. Such "pay to play" practices warrant an independent investigation into whether any laws were broken.

In light of the fulfillment of both regulatory requirements – a criminal investigation's being warranted and conflict of interest or extraordinary circumstances being present should such an investigation be directly conducted by the Administration – I strongly request that you exercise your authority to appoint a special counsel to investigate these affairs of the Clinton Foundation. The indispensable integrity of the system, fairness to all under the law with special treatment for none, and transparency for the American public, demand it.

Thank you for your review of this correspondence and I look forward to your reply. Should you have any questions regarding this letter, please feel free to contact me, or my Legislative Assistant, Robert Vega, at 202.225.6605 or robert.vega@mail.house.gov.

Sincerely,



Kenny Marchant
Member of Congress